



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/585,513

04/03/2007

Takeharu Ueda

403763/SKY

3674

23548 7590 12/23/2010
LEYDIG VOIT & MAYER, LTD
700 THIRTEENTH ST. NW
SUITE 300
WASHINGTON, DC 20005-3960

EXAMINER

SINES, BRIAN J

ART UNIT

PAPER NUMBER

1772

NOTIFICATION DATE

DELIVERY MODE

12/23/2010

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

DCpatent@leydig.com
Chgpatent@leydig.com

Office Action Summary

Application No.

10/585,513

Applicant(s)

UEDA ET AL.

Examiner

Brian J. Sines

Art Unit

1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 1-14 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

Art Unit: 1772

Election/Restrictions

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so
4 linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a
single invention to which the claims must be restricted:

This application contains claims directed to the following patentably distinct species:

- 8 **Species 1** drawn to the first embodiment (see specification, page 6);
 Species 2 drawn to the second embodiment (see specification, page 14);
 Species 3 drawn to the third embodiment (see specification, page 18);
 Species 4 drawn to the fourth embodiment (see specification, page 22);
12 **Species 5** drawn to the fifth embodiment (see specification, page 24);
 Species 6 drawn to the sixth embodiment (see specification, page 26); and
 Species 7 drawn to the seventh embodiment (see specification, page 29).

16 The species are independent or distinct because the inventions listed as Species 1 – 7 do not
relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they
lack the same or corresponding special technical features for the following reasons: Species 1 – 7
each share the special technical feature comprising the subject matter of claim 1 comprising the
20 recited acid liquid leakage sensor configuration. However, this particular feature is at least
considered anticipated by document JP 2002-277435, as indicated in the International Search Report
filed 7/10/2006. Accordingly, Species 1 – 7 lack a special technical feature that makes a

Art Unit: 1772

contribution over the prior art and therefore lack unity of invention *a posteriori* (see MPEP § 1850).

In addition, these species are not obvious variants of each other based on the current record.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species, or a single
4 grouping of patentably indistinct species, for prosecution on the merits to which the claims shall be
restricted if no generic claim is finally held to be allowable. Currently, claim 1 is generic.

There is a search and/or examination burden for the patentably distinct species as set forth
above because at least the following reason(s) apply:

8 (a) the inventions have acquired a separate status in the art in view of their
different classification;

(b) the inventions have acquired a separate status in the art due to their
recognized divergent subject matter;

12 (c) the inventions require a different field of search (for example, searching
different classes/subclasses or electronic resources, or employing different
search queries);

(d) the prior art applicable to one invention would not likely be applicable to
16 another invention; and

(e) the inventions are likely to raise different non-prior art issues under 35 U.S.C.
101 and/or 35 U.S.C. 112, first paragraph.

Applicant is advised that the reply to this requirement to be complete must include

20 **(i) an election of a species or a grouping of patentably indistinct species to be examined**

Art Unit: 1772

even though the requirement may be traversed (37 CFR 1.143) and (ii) **identification of the claims encompassing the elected species or grouping of patentably indistinct species**, including any claims subsequently added. An argument that a claim is allowable or that all claims are
4 generic is considered nonresponsive unless accompanied by an election.

The election may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the election of species requirement, the election shall be treated as an election
8 without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144. If claims are added after the election, applicant must indicate which of these claims are readable on the elected species or grouping of patentably indistinct species.

12 Should applicant traverse on the ground that the species, or groupings of patentably indistinct species from which election is required, are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing them to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the
16 species unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other species.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable
20 generic claim as provided by 37 CFR 1.141.

Art Unit: 1772

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian J. Sines whose telephone number is (571) 272-1263. The examiner can normally be reached on Monday - Friday (8 AM - 4 PM EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, In Suk Bullock can be reached on (571) 272-5944. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Brian J. Sines
Primary Examiner
Art Unit 1772

/Brian J. Sines/
Primary Examiner, Art Unit 1772